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REGULAR CITY COUNCIL MEETING  
JULY 16, 1984

PRESENT:

Grant S. Nielson	Mayor
Jim Allan	City Manager
Warren Peterson	City Attorney
Dorothy Jeffery	City Recorder
Don Dafoe	Council Member
Craig Greathouse	Council Member
Ruth Hansen	Council Member
Neil Dutson	Council Member

ABSENT:

Kjell Jenkins	Council Member
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OTHERS PRESENT:

Martin Ludwig  
Leah Kauwe  
Joseph M. Moody, State Representative  
Val Oveson, Utah State Auditor  
Jim Fletcher, KNAK Radio

Mayor Nielson called the meeting to order at 7:00 p.m. and stated that the notice of the time, place and agenda of the meeting had been posted at the principal office of the governing body and had been provided to the Millard County Chronicle, the Millard County Gazette, and the local radio station, KNAK, and to each member of the governing body by personal delivery of copies of the Notice and Agenda two (2) days prior to the meeting.

ACCOUNTS PAYABLE

City Recorder Dorothy Jeffery asked if there were any questions regarding the Accounts Payable, which were included in the Council's packet on July 14, 1984.

There were questions regarding purchase of nine (9) bullet-proof vests costing \$2,115. The City Manager explained to the Council that this purchase had been discussed with Chief Cooper and it was felt that the vests were needed for the safety of the officers. Each officer will be issued his own vest.

Following further discussion, Council Member Ruth Hansen MOVED that the accounts payable be approved for payment as listed. Council Member Neil Dutson SECONDED the motion, which carried unanimously.

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REPRESENTATIVE JOSEPH M. MOODY AND UTAH STATE AUDITOR VAL OVESON

Mayor Nielson recognized State Representative Joseph M. Moody and candidate for Lt. Governor, Val Overson, who were in attendance at the meeting and asked if they would like to address the Council. Mr. Oveson asked the Council if they had any concerns they would like to discuss with him. Mayor Nielson stated Delta City has had some problems getting current data from the Utah State Tax Commission. Mr. Overson asked if Delta City was ready to join the tax revolt regarding the State Tax Commission's lack of responsiveness to local governments, to which Mayor Nielson answered "yes".

City Administrator Jim Allan stated he had some concerns with the federal and state government regarding the procedure used in connection with community and economic development of CDBG monies. He stated he had attended a community economic development workshop on Friday, July 13, 1984, and found that the requirements made it prohibitive for the small cities to even apply for grants of under \$50,000 because of the paperwork involved, and yet there are many projects needed to be done in the small cities where grant monies make the difference in whether the project is done.

Mr. Oveson commented on the Utah Department of Transportation and traffic lights for Main Street in Delta, and asked if the Council felt that there was a need for traffic lights in our downtown area. Mayor Nielson stated that the Department of Transportation had completed a traffic survey, and they are in the process now of setting a time and date to complete another survey. Mr. Oveson told the Council that he would check into this and see what the status of the survey was.

Following further discussion of the traffic problem in our area, Mr. Oveson and Representative Moody thanked the Council for the time they had given them for their comments. Mayor Nielson thanked Representative Moody and Mr. Oveson for their attendance in Council Meeting and extended an invitation for them to attend again whenever they had the time.

PROPOSED RESOLUTION REGARDING THE ANIMAL CONTROL AGREEMENT

Attorney Peterson presented a proposed resolution increasing kennel fees and impounding fees for dogs impounded under Chapter 13-200 of the Revised Ordinances of Delta City (1981 edition) entitled "Animal Control." Attorney Peterson explained to the Council the proposed Resolution will change the impound fees from \$5.00 per dog to \$10.00 per dog and the kennel fees from \$.50 per day to \$2.00 per day. Council Member Dutson suggested that a procedure should be established that the City will only be charged for the kennel fees for the required days the dog has to be kept prior to disposing of the animal. Attorney Peterson told the Council he had inquired at the City Office regarding a summary sheet of the animals disposed of and impounded, and was told there was not a summary sheet given to them by the animal control officer. The animal control officer had stated at the July 9, 1984, City Council Meeting that he does prepare a monthly summary sheet of the animals impounded and disposed of. Council Member Greathouse

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suggested a weekly detail sheet be prepared and given to the City of the animals picked up, listing the day they are picked up, and the day they are either claimed or disposed of.

Following further discussion of the proposed Resolution, Council Member Neil Dutson MOVED to adopt Resolution No. 84-109 entitled:

A Resolution Increasing Kennel Fees and  
Impound Fees for Dogs Impounded Under Chapter  
13-200 entitled "Animal Control of the Revised  
Ordinances of Delta City (1981 edition).

Council Member Craig Greathouse SECONDED the motion, after which Mayor Grant Nielson called for a roll call vote. Voting was as follows:

Council Member Neil Dutson:	Yes
Council Member Ruth Hansen:	Yes
Council Member Don Dafoe	Yes
Council Member Craig Greathouse	Yes
Council Member Kjell Jenkins	Absent

Following the voting, Mayor Nielson signed the Resolution and it was attested by Dorothy Jeffery, Delta City Recorder.

#### PURCHASING AND BIDDING PROCESS

City Manager Jim Allan reviewed with the Council a proposed Purchasing and Bidding Process document. A copy of the document had been given to the Council July 9, 1984, thus allowing them time to review it.

There was discussion of procedures for spending petty cash, blanket purchase orders, and requisitions. Mr. Allan stated that he felt that with this new procedure, the City would have much greater control of all purchases made by Delta City. The Council felt that those doing the purchasing for Delta City should be encouraged to do as much of the purchasing locally as they possibly could, and to also be sure our local contractors are aware of any bids being let by Delta City, affording them the opportunity to bid if they so choose.

Council Member Craig Greathouse suggested all items costing over \$1,000 should be brought before the Council prior to the purchase. Council agreed. Following further discussion of the Purchasing and Bidding Process document, it was the opinion of the Council after the agreed changes were made to the document, the City Manager should advise the City staff to follow the purchasing and bidding process, effective July 17, 1984.

#### DISCUSSION OF STREET VACATION AND LAND EXCHANGE IN PROPOSED BUNKER SUBDIVISION

Attorney Peterson displayed a plat map of the proposed Bunker Subdivision and explained the following proposal on street vacation and land exchange:

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1. Delta City would vacate and convey to the adjoining landowners those portions of Fourth East, 450 East, Fifth East and Sixth East Streets lying north of Fourth North street and the south 8 feet of that portion of Fifth North Street lying east of 350 East Street.

2. These vacated streets would be conveyed to the adjoining property owners in exchange for dedication for street purposes of the 25 feet lying immediately north of the North boundary of Section 7, Township 17 South, Range 7 West, Salt Lake Base and Meridian from 350 East Street to the east edge of Sixth East Street.

Following a general discussion of the issue, Council Member Don Dafoe MOVED to authorize Attorney Warren Peterson to draft an ordinance to vacate a portion of 400 East, 450 East, 500 East, and 600 East Streets as indicated on the final plat map of the Bunker Subdivision, and also accept the dedication of 450 North Street from 350 East to 6th East. Motion was SECONDED by Council Member Craig Greathouse and received a unanimous affirmative vote of all Council Members present.

#### ACCEPTANCE OF THE SEWER LAGOON BIDS, SEWER IMPROVEMENT PROJECT PHASE III

City Manager Jim Allan told the Council the City had received a total of four (4) bids on the sewer lagoons expansion project. The bids were submitted by Jay Tuft & Co., Westcon, Interstate Construction, and K&P Plumbing. Bids were posted on four schedules. The lower bidder on schedules 1 and 2, which is the construction of the new sewer lagoon system, was Interstate Construction. Their total bid was \$589,093.75, approximately \$105,000.00 lower than the next lowest bid. Council Member Don Dafoe asked if Interstate had withdrawn their bid. City Manager Allan explained he had been trying to contact Interstate Construction by phone all day, but had been unable to make contact with anyone. Mr. Allan further stated the engineer's estimate for schedules 1 and 2 was \$619,000.00.

Mr. Allan stated on schedules 3 and 4, which is to upgrade Lift Station A and for the backup pumps, there were two bidders: Westcon and K&P Plumbing. The lower bidder was Westcon, with a bid of \$50,615.00. K&P's bid was \$53,509.00.

City Engineer John Quick's office has checked the calculation on bid amounts and found them to be correct. Council Member Craig Greathouse asked if there were any companies that had bid both jobs. City Manager Allan stated that both K&P Plumbing and Westcon had bid both jobs. Westcon's bid for schedules 1 and 2 was \$755,000.00, as compared to Interstate's \$589,000.00. K&P's bid on schedules 1 and 2 was \$694,000.00. Council Member Craig Greathouse asked if the City had enough funding for the project if it became necessary to go to one of the higher bidders. City Manager Allan said he thought sufficient funding was available.

Council Member Don Dafoe then MOVED to accept bids from Interstate for schedules 1 and 2 of Sewer Improvement Project, Phase III, in the amount of \$589,093.75 subject to City Engineer John Quick doing a background check on Interstate Construction Company and to accept the bid from Westcon on

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schedules 3 and 4 in the amount of \$50,616.00, subject to City Engineer John Quick reviewing the bid. Council Member Ruth Hansen SECONDED the motion. Mayor Nielson then called for a vote on the motion, which carried unanimously.

#### SCHEDULE WORK SESSION FOR MERIT INCREASES

City Manager Allan told the Council when the department heads presented their proposed 1984-85 budgets, they had included merit increases for certain employees. He felt that instead of presenting their merit increase requests during a Regular City Council Session, he would recommend the Council schedule a work session and have each department head present their case at that time.

Following a brief discussion, it was the opinion of the Council that because of some of the Council Members being on vacation for the next three (3) weeks, it would be in the best interest of everyone involved if they waited until the Regular City Council Meeting to be held on August 13 to schedule the aforementioned work session for the purpose of discussing merit increases.

#### PAYMENT REQUEST FROM SKYLINE CONSTRUCTION COMPANY FOR WORK COMPLETED ON DELTA ESTATES

City Manager Allan presented a Warrant for Payment Request Number 2 from Skyline Construction Company for work completed to date at Delta Estates. The payment request has been reviewed by City Engineer John Quick and others involved. The amount of the request is \$26,938.53. There is a retainage involved of \$3,439.35. The previous Warrant Number 1 for pay request number 1 was in the amount of \$38,509.62. The total earned under the contract is \$68,787.50. The 5% retainage, or \$3,439.35, will be held until such time as any and all problems with the project have been satisfactorily completed by Skyline Construction.

Council Member Craig Greathouse MOVED that the City issue Warrant Number 2 in the amount of \$26,938.53 for the pay request Number 2 to Skyline Construction Company for work completed to date on Delta Estates project. Motion was SECONDED by Council Member Don Dafoe. Mayor Nielson then asked if there were any further discussion on the motion. There being none, he then called for a vote on the motion, which carried unanimously.

#### DISCUSSION REGARDING FINANCING FOR THE STREET AND DRAINAGE PROJECT

Council Member Don Dafoe told the Council he had spoken to Attorney Peterson regarding using Class C road monies for a portion of repayment of the street and drainage project. He then asked Attorney Peterson to discuss with the Council the proposed use of these funds.

Attorney Peterson reminded the Council that the topic had been discussed earlier by the Council of whether or not the Class C road fund money could be used as a revenue source to allow the City to issue a non-voted revenue bond to the Community Impact Board to secure repayment of the low-interest

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loan from the Bond. Mr. Peterson said that Blaine Carlton, the bond attorney retained by Delta City for this project, has given his opinion that the Class C road fund could be used as a revenue source for the repayment to the extent that they are not derived from general taxes. Mr. Carlton said that a ratio used for such bond issues is that 75% of the Class C road funds are from a qualified source; that is, one that can be considered a revenue for repayment of a revenue bond, so 75% of the Class C road monies can be used for repayment of that non-voted revenue bond.

Attorney Peterson further explained there are some additional complications to this issue. One is whether the revenue or interest earned from the \$500,000 IPP has given Delta City for this project has to be brought back into the general fund and if that is the case, the bond might then be a general obligation bond instead of a revenue bond. This would limit the bonding capacity of the City and would require a bond election. Blaine Carlton's opinion is that the interest earned would not be a general fund revenue if the monies were set aside in a specific road improvement fund. Mr. Carlton recommended that the grant received under the IPP contract be set into that kind of fund and that the revenues or interest earned from that investment could then be used as part of the revenue for the revenue bond.

Attorney Peterson described an additional problem. With the \$500,000 already in hand, he said, the City was issuing a bond for more than the amount actually needed to fund the streets and drainage project. Under the Internal Revenue code, the City was therefore issuing an arbitrage bond, which, in part, meant that a portion of the interest income from the funding package would help repay that same package. The bonds that were to be issued were therefore not a tax exempt bond, even though they were a municipal bond, because of the arbitrage characteristic of the bond.

Attorney Peterson stated that the State and Community Impact Board staff had been asked whether the fact that the bonds were not tax exempt would affect the bond purchase by CIB. He said their reply was that even though the bonds were not tax-exempted, the State was a tax-exempt entity and they have no intention of reselling the bonds. Attorney Peterson told the Council that their proposal would work with these qualifications and restrictions.

Mayor Nielson told the Council that the \$500,000 will be used to purchase federal securities at an interest rate of 13.37%. The closing date will be August 15, at which time the City will also be closing the board sale to the CIB. City Manager Allan told the Council the revenue shortfall will be \$13,342 per year, which will be made up from the Class C road fund.

Council Member Don Dafoe then MOVED Delta City obligate the Class C road funds in the amount of \$13,342 per year for the road improvement project. The motion was SECONDED by Council Member Craig Greathouse. Mayor Nielson asked if there were any further discussion regarding the motion. There being none, he then called for a vote. The motion carried unanimously.

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DISCUSSION REGARDING PROPOSED WATER RIGHTS LITIGATION

Mayor Nielson stated because of the nature of this item, he would recommend it be discussed in closed session. He then asked Attorney Peterson to explain this matter. Attorney Peterson explained he and the Mayor had discussed this issue earlier. There are some water rights of the City that are being affected significantly by a recent memorandum decision. They thought it appropriate to ask the Council members to decide if they wanted that memorandum decision appealed to District Court. There is some litigation strategy that needs to be presented. Attorney Peterson said he had suggested to the Mayor that the Council go into closed session to discuss this issue.

Council Member Ruth Hansen MOVED that the Council go into closed session for the purpose of discussing proposed water right litigation. Motion was SECONDED by Council Member Craig Greathouse. The motion carried unanimously at 9:26 p.m.

Council Member Don Dafoe MOVED to return to open session at 9:40 p.m. The motion was SECONDED by Ruth Hansen. Motion carried.

Mayor Nielson stated "The document we have here is a memorandum decision approving Change Application No. 68-2435. This well is located near the Delta City Airport. The State Engineer has approved this Change Application request, and the irrigation companies are going to contest this decision. The fact that Delta City may also be affected by this Change Application, I would suggest that Delta City join the irrigation companies in appealing the State Engineer's decision regarding this Change Application."

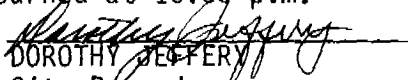
Following further discussion of the matter, Council Member Don Dafoe MOVED Delta City be a party in the appeal of the decision in the matter of Change Application No. 68-2435, Change Application filed by Daniel Hunter and Keith Taylor. The motion was SECONDED by Council Member Craig Greathouse. Mayor Nielson then asked if there were any further discussion regarding the motion. There being none, he then called for a vote. Council Members Ruth Hansen, Craig Greathouse and Don Dafoe all voted in the affirmative. Council Member Neil Dutson abstained. Motion carried.


Mayor Nielson asked if there was any business to be placed on the agenda for the next Regular City Council Meeting.

Attorney Peterson requested that the following items be placed on the agenda:

1. Street Vacation and Dedication in the Bunker Subdivision.
2. Approval of Bunkers' Nordel Subdivision, Phase I.

Mayor Nielson asked if there were any further business or comments to discuss. There being none, Council Member Neil Dutson MOVED the meeting be adjourned. Motion was SECONDED by Council Member Ruth Hansen. The meeting was adjourned at 10:05 p.m.

Attest:   
DOROTHY JEFFERY  
City Recorder

  
GRANT S. NIELSON, Mayor